

# Power Contestation on Marriage Age Discourse in dealing with Islamic Values: A Case Study on Nahdlatul Ulama

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## ABSTRACT

This study aims to understand the debate on the issue of early marriage from the perspective of NU and NU women activist group. Why there is a difference attitude between NU structures and NU women activist groups. What the knowledge regime that underlies the legitimacy of their attitude is. What are the interests behind differences in attitudes and knowledge regimes used. This study uses a qualitative method. The data was collected by interviewing the board of Muslimat NU, PP Fatayat NU, and PP Rahima and collecting documentation from books, journals, magazines, printed and online newspapers, official website, and mass media decisions. Data analysis techniques performed with data reduction, data display, and conclusion. The result shows that differences in attitudes between NU structures and NU women activist groups stem from different perspectives and interests. Differences perspectives can be seen from differences in interpretation "baligh" as the basis for setting marriage age limit. The interest of the NU structures is to accommodate early marriage practices and maintain the status quo of the NU gender habitus. The interest of NU women activist groups is to contextually interpret fikih and to fight for prosecuting patriarchy within the NU gender habitus. NU Women's activist groups can reproduce reason about gender relation in Islam that derived from the accumulation of social capital and cultural capital. Although it cannot change the NU's patriarchal gender habitus, the reproduction of reason by NU women activist groups is able to present itself as an alternative gender discourse within NU.

*Keywords: Power Contestation, Marriage Age Discourse, Early Marriage, Capitals, Habitus, Nahdlatul Ulama Women's Activist*

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## ABSTRAK

Penelitian ini bertujuan untuk memahami perdebatan isu pernikahan dini dari perspektif kontestasi kuasa antara struktur NU dengan kelompok aktivis perempuan NU. Mengapa terjadi perbedaan sikap antara struktur NU dengan kelompok aktivis perempuan NU. Apa rejim pengetahuan yang menjadi basis legitimasi sikap mereka. Apa kepentingan di balik perbedaan sikap dan rejim pengetahuan yang digunakan. Penelitian ini menggunakan metode kualitatif. Pengumpulan data dilakukan dengan cara mewawancarai pengurus PP Muslimat NU NU, PP Fatayat NU NU, dan PP Rahima serta melakukan pengumpulan dokumentasi dari buku, jurnal, majalah, koran cetak dan online, website resmi, dan keputusan bahtsul masail. Teknik analisa data dilakukan dengan tahapan reduksi data, display data, dan penarikan kesimpulan. Hasil penelitian menunjukkan bahwa perbedaan sikap antara struktur NU dengan kelompok aktivis perempuan NU disebabkan karena adanya perbedaan perspektif dan perbedaan kepentingan. Perbedaan perspektif dapat dilihat dari perbedaan penafsiran “baligh” sebagai dasar penetapan batas usia menikah. Kepentingan struktur NU adalah untuk mengakomodasi praktik pernikahan usia dini yang masih terjadi di kalangan NU dan mempertahankan status quo habitus gender NU. Kepentingan kelompok aktivis perempuan NU adalah untuk mereinterpretasi fikih secara kontekstual dan memperjuangkan ideologi teologi feminisme yang menggugat patriarkhi dalam habitus gender NU. Kelompok aktivis perempuan NU mampu mereproduksi nalar tentang relasi gender dalam Islam yang diperoleh melalui akumulasi modal sosial dan modal kultural. Meskipun tidak bisa mengubah habitus gender NU yang patriarkhis, namun reproduksi nalar yang dilakukan oleh kelompok aktivis perempuan NU mampu hadir sebagai wacana gender alternatif dalam NU.

Kata kunci: Power Contestation, Marriage Age Discourse, Pernikahan Dini, Modal, Habitus, Aktivis Wanita Nahdlatul Ulama

## INTRODUCTION

Law No. 1 of 1974 on Marriage (UUP) has been greatly criticized over the past two decades. One of the issues that the pros and cons are the minimum age of marriage, especially for women. The Marriage law in Article 7, Paragraph (1) states that the minimum age of marriage for women is 16 years and for men 19 years. Some people consider that the minimum age of marriage for women should be reviewed and raised to 18 years in line with the dynamics in the society today. In addition, based on Law Number 35 Year 2015 on Child Protection Law, Article 1 states that "a child is a person who is not 18 years old enough, including a child still in the womb". When referring to the terminology of child protection, the age of 16 is defined as the minimum age of marriage for women in which child protection law is still classified into the category of children.

Based on data from the Central Bureau of Statistics (BPS) and UNICEF until 2015, the prevalence of child marriage in Indonesia reaches more than one-sixth of married women before reaching adulthood (18 years) or about 340,000 women annually. Although marriage of women under the age of 15 is lower than women's marriage at the age of 16 and 17, it shows that protection against women decreases when they are 16-17 years old. It should also be noted that marriage of children under the age of 15 may not reflect actual prevalence because many of these marriages are unregistered ([https://www.unicef.org/indonesia/id/Laporan\\_Perkawinan\\_Usia\\_Anak](https://www.unicef.org/indonesia/id/Laporan_Perkawinan_Usia_Anak)).

According to data from the National Socio-Economic Survey (Susenas), the case of early marriage in rural areas are more prevalent than in urban areas. The table below shows the data of early marriage in Indonesia with categorization under the age of 15 years and 18 years, based on underdeveloped regions.

**Table 1**

Percentage of Married Women Before Age 15 Year 2008-2012

| Residence Area | 2008 | 2009 | 2010 | 2011 | 2012 |
|----------------|------|------|------|------|------|
| (1)            | (2)  | (3)  | (4)  | (5)  | (6)  |
| Urban          | 1,4  | 1,6  | 1,3  | 1,4  | 1,4  |
| Rural          | 4,1  | 3,2  | 3,4  | 3,2  | 2,5  |

Source: National Socio-Economic Survey 2008-2012

**Table 2**

Percentage of Married Women Before Age 18 Years 2008-2012

| Residence Area | 2008 | 2009 | 2010 | 2011 | 2012 |
|----------------|------|------|------|------|------|
| (1)            | (2)  | (3)  | (4)  | (5)  | (6)  |
| Urban          | 18,8 | 18,7 | 18,3 | 18,6 | 19,0 |
| Rural          | 33,5 | 31,0 | 29,3 | 29,0 | 29,2 |

Source: National Socio-Economic Survey 2008-2012

Nahdlatul Ulama (NU) as one of the major Islamic mass organizations in Indonesia has a grass root base which majority live in rural areas. The practice of early marriage has been going and still debatable among the NU to this day. Structurally, NU states the attitude of supporting the Marriage Law concerning the minimum age of marriage. However, some NU societies does not agree with the Bahtsul Masail Institution's decision.

Differences of opinion were read from the opinion of Kiai and moderate-looking NU figures, NU gender activist groups both within the NU structure as autonomous bodies (Muslimat and Fatayat)<sup>1</sup> as well as gender activist groups outside the NU structure (one of them is Rahima)<sup>2</sup>, and the Assembly Consultation of Indonesian Boarding School (MP3I)<sup>3</sup>.

Differences of opinion among NU, even against the fatwa issued by the Bahtsul Masail Institution, is a necessity. Hierarchically, juridically in the decision-making structure, the mass bahsul organized by PBNU and the result set in the Congress is the highest authority and also has a stronger binding force for Nahdliyin ([Anshor, 2012:78](#)). However, the decision of the Alim Ulama National Congress in Bandar Lampung in 1992 declared that the results of the conclusion of the bahsul masail whether or not carried out by PBNU, provided that within the scope of NU, have equal and non- canceling legal force. The consequence of Alim Ulama National Congress decision is that if there is a conflict between the decision result of PBNU and the result of NU's decision, then they are allowed to walk individually ([Zahro, 2004:76- 77](#)).

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<sup>1</sup> Muslimat is an autonomous body within the structure of NU dedicated to adult women (senior) who are aged 27 years old and above or already married. Fatayat is an autonomous body within the structure of NU dedicated to young women (junior) who are maximally 40 years old.

<sup>2</sup> Fatayat and Rahima are actively involved in fighting for the marriage age increase from 16 to 18 years old for women. They joined other organizations, such as Aisyiyah, Nasyiatul Aisyiyah (NA), Kalyanamitra, Komisi Perlindungan Anak Indonesia (KPAI), Perkumpulan Keluarga Berencana Indonesia (PKBI), Women Research Institute (WRI), LBH APIK, to filed judicial review to Mahkamah Konstitusi (MK) and legislative review to Dewan Perwakilan Rakyat (DPR).

<sup>3</sup> MP3I is an organization outside the NU structure which consists of kiai-kiai from pesantren in Indonesia. Some of them are recognized kiai and have good scientific knowledge of fikih and have great charisma among nahdliyin. MP3I declaration was

Research conducted by [Zahro \(2004\)](#) against the decision of Bahtsul Masail PBNU Institute in 1926-1999 showed that the absence of a definitive agreement on the authoritative holy books are used as a reference in decision making of the dynamics of discussion in Bahtsul Masail. While [Ma'mur \(2014\)](#) found dynamics in the Bahtsul Masail Institute from the perspective of actors involved in discussing gender issues is conservative, moderate, and liberal groups that are mutually contested to influence the decision. The dynamics of gender issues in NU are also influenced by the inclusion of new perspectives among the younger generation of NU regarding their religious views and attitudes to gender inequality that occurs to Muslim women. This progressive group sees the causes of gender inequality stemming from the old fikih tradition that is understood and accepted as the standard of religious teaching ([Effendi, 2008](#)). Fatayat NU as an autonomous body of young women NU in some research is called progressive attitude and become one of agent of change among women in NU ([Effendi 2008, Monika 2009, Safri, 2012](#)).

The interpretation of the religion teachings is strongly influenced by the perspectives used by its interpreters and the interests of its interpreters. Frequently, interpreters are influenced by the consideration of the spiritual and material benefits that they will be gained. This means that the interpretation of religious teachings is related to political, economic, social, cultural, and ideological interests ([Fakih, 2000:54](#)).

Differences of opinion on the issue of early marriage among NU cannot be separated from differences in perspective and interests. The gender discourse that challenges the establishment of women jurisprudence is clearly not readily accepted by the established patriarchal within the structure and culture of NU as a gender habitus. Thus, the debate on the issue of early marriage between the NU's group of structures and women's activist groups can be read as a power contest to win each other's perspectives and interests. This phenomenon shows that the debate on gender discourse within NU is dynamic and political ([Rahmawati, 2015](#)).

This study focused at power contestation on the early marriage issue between groups of NU structures, through the fatwa of the Bahtsul Masail Institution, with NU women activist groups. This research investigates why there is a difference in attitudes between the NU's group of structures and the NU women's activist group when they are in the same gender habitus which is patriarchal habitus, what knowledge regimes are the basis for the legitimacy of their attitudes, and what the interests are behind differences in attitudes and regimes knowledge used.

The theoretical contribution of this research is to complement the study on gender issues from the perspective of power contestation, in particular the study of gender in NU. Power contestation is the competition and struggle of groups that have strategic positions that are interconnected with each other or also interpreted as the competition of various groups who fight for a certain ideology and value. Practically, the contribution of this research can be used by women activist groups in advocating gender equality ideas, as well as civil society and social movement activists or NGOs in formulating movement strategies.

#### **THEORETICAL FRAMEWORK**

The concept of contestation in political science generally can be interpreted as the competition and the struggle of parties who have strategic positions that are related to each other. With that understanding, contestation can occur at discursive and praxis levels, this means that there are interests, capital, and strategies used in the competition. Contestation can also be interpreted as the contestation of various groups that fight for ideology and values. The space for discourse will always be opened so that there are various comparisons which open up the debate to the conflict ([Fahrizal in Rahmawati, 2017](#)).

Pierre Bourdieu initiated the theory of genetic structure by proposing several important concepts: habitus, field, and capital ([Fashri, 2003](#)). Social practice or political practice is a sintesa from habitus, field, and capitals. According to him, in every society there are always dominant and dominated groups. The dominating group will try to maintain the status quo, while the dominated group will try to change the status quo. Therefore, the social world is a dynamic contest arena because of the battle to interpret social reality between dominant parties and dominated parties. Actors and structures both play a role in the interpretation of social reality. On the one hand actors can influence the structure, whereas the structure can affect the actor. This research uses the genetic structural theory of Pierre Bourdieu because this theory can explain the power contestation on early marriage between the NU structure and the NU women activist group.

### **1. Habitus: Cognitive Mental Structure as the Base of Thinking and Acting Actor**

Habitus is a cognitive mental structure used by actors to deal with social life. Actors are prepared with a series of internalized patterns that they use to feel, understand, realize, and value the social world. Through these patterns, the actors produce their actions and judge them. Habitus is internalized in an individual or group or institution through a socialization process. Through socialization, the mechanisms of thought and perceptions that the way individuals open and train themselves in social relations and assimilate norms, values, and beliefs of a society internalized ([Haryatmoko, 2003](#)). The variety of habitus are depending on one's position in social life. Thus, habitus can be individual or collective. Habitus leads the actor to choose what to do. Hence, people are not always rational, people act in a reasonable way but they also have feelings to act ([Ritzer, 2011](#)).

Some important things that can be drawn about the concept of habitus is (Adib, 2012): *First*, habitus is a historical product. Habitus manifested in a particular individual or group is obtained through the process of

individual or group history and is a function of the intersection in social history in which it occurs. Habitus is durable and can be moved from one arena to another. *Second*, the habitus is born from certain social conditions. Thus, habitus is structured which structure (structured structure). Habitus is a structure that is formed and formed, produced and produce the social world. On the one hand the habitus is the structure that structures the social world. On the other hand, the habitus is structured by the social world. *Third*, habitus is a structured disposition and also serves as a framework that gives birth and gives shape to perceptions, representations, and actions. Hence the habitus becomes a structural structure (structuring structure). *Fourth*, the habitus is transposable. Although the habitus is born in certain social conditions, it can be transferred to other social conditions. Social habits that have been formed can be a way of solving problems in a new social context. *Fifth*, the habitus is pre-conscious (preconscious) because it is not the result of reflection or rational consideration.

Habitus is an unwitting and unwanted spontaneity intentionally, but it is not a mechanistic movement with no historical background at all. *Sixth*, habitus is orderly and patterned. However, habitus is not subject to certain rules. Habitus is not only a state of mind, but also a state of body, even a site of incorporated history. An action can be regarded as a social custom if the actor is no longer expecting rewards from his/her actions. *Seventh*, habitus can lead to the purpose and outcome of certain actions, but without the conscious intent to achieve such goals or outcomes nor without the mastery of a special skill to accomplish it. The existence of goals when a habit is formed and forgotten as well as no longer a conscious motivation. The internalized goals give a social character because the purpose is to fulfill the group interest. The existence of goals confirms that habitus as a social habit should be positive.

## **2. Capital: Resource Base and Strategy for Winning Contestation**

Capital is a resource owned by individuals, groups, or institutions that have influence or social value. Bourdieu classifies capital into four types of categories, namely: economic capital, cultural capital, social capital, and symbolic capital. *First*, the economic capital which include production of (machinery, land, labor), material, and money. *Second*, cultural capital is the overall intellectual qualification possessed through formal education and family inheritance. In the cultural capital is included the ability to present themselves, possessing high cultural objects, knowledge and expertise from educational outcomes, diplomas or certificates (degrees), acquired knowledge, cultural codes, ways and writing skills, politeness, how to greet, and play a role in determining and improving social positions. *Thirdly*, social capital that refers to the social networks which the actors possess either individuals or groups within other parties who are having power. The social network is a useful resource in job determination and performance. *Fourth*, symbolic capital is any form of prestige, status, and legitimacy that accumulates. Symbolic capital cannot be separated from the symbolic power, which is the power that allows to get in common what is produced through physical and economic power as a special consequence or mobilization. Symbolic capital can be large in an elite area, a car with a driver, and also be eye-catching clues that indicate the owner's high status, such as the educational title listed on the business card, the manner in which a person keeps his/her guest waiting, or how to affirm his authority ([Haryatmoko, 2003](#)).

## **3. Environment/Field: The Contest for Dueling Doxa**

Field is a contest arena between individuals, groups, or institutions by using certain strategies to change the configuration of power. Contestation in the realm involves doxa, ortho-doxa, and hetero-doxa. Doxa on intuitive knowledge formed by experience, inherited, accepted as if it were something right and natural.

Orthodoxa under conditions where arbitrary doxa. Heterodoxy depends on the acceptance of possible conflicts of faith that require discursive change. Heterodoxa in the form of a form usually derived from a group having different life experiences from the social class and also from the dominant part of doxa ([Deer in Grenfell, 2008](#)). The contestation between hetero-doxa and ortho-doxa to fight for doxa will continue, because in every society there is a dominating and dominated group. The dominance depends on the situation, resources, and strategy. The strategy applied depends on the capital owned and the capital structure in its position in the realm. If they are in a dominant position, then the strategy is directed to maintain the status quo. Meanwhile, if they are in a dominated position, then the strategy is directed to change the capital, rules, and positions so that there is a change of power configuration ([Fashri, 2003](#)).

Social domination requires recognition for its existence, for the purposes of symbolic power. Symbolic power is the power (economic, political, cultural, etc.) that has the ability to be unrecognizable to the original form, no apparent form of violence and misconduct. For the example of true motivation, namely domination, then the symbolic power of the form of the subtle forms in order not easily recognizable. This is causes the dominant group not to object to the circle of domination, which is referred to as "symbolic violence" ([Rusdiarti, 2003](#)). Symbolic violence takes place of ignorance and recognition of the oppressed group. The effectiveness of the symbolic power works with science (science, culture, consciousness). While the symbolic principle can be the language, lifestyle, way of thinking, how to plant, and the attitude that is peculiar to a particular group on the basis of the characteristics of the body. Thus, the logic of this dominance actually works because of symbolic principles that are known and accepted by dominant or dominated parties ([Wahyuni, in Rahmawati 2017](#)).

Bourdieu uses the concept of symbolic violence to refer to the invisible violence, by which the dominant group and the dominated group are not seen or perceived as a form of violence or domination, but regarded as natural. Symbolic violence works by the mechanism of concealment of violence that belongs to something that is accepted as "it should be" (doxa). Doxa can be obtained through an inclusion process or a continuous naming process (habitus). The supposition of the natural, as it should be, a myth perpetuated by the dominating group, is also supported and accepted by the socio-cultural structure and the organization of society ([Wahyuni in Rahmawati 2017](#)).

Based on Bourdieu Theory, the social practice in this study is the expression or attitude expressed both in the form of oral and text about the minimum age of marriage. This attitude gets its rationalization mainly from the interpretation of religious texts, in this case is the jurisprudence of some mazhab recognized in the NU as a knowledge regime. Habitus in this study is a patriarchal mental structure in NU. The field or arena of contestation in this study is the issue of early marriage which became the arena of power contestation between the NU structure and the NU women activist group. Doxa in this research is a commonly developed understanding among the NU that is regarded as the truth and gets the legitimacy of the Fatwa of Bahsul Masail PBNU Institution concerning the minimum age of marriage. Ortho-doxa in this research is the NU structure that dominates the doxa through the resulting fatwa. Hetero- doxa in this study are groups of NU women activists who disagree with the dominance of doxa and seek to change it.

## RESEARCH METHOD

Efforts to eliminate early marriage are a response to the growing number of evidence that indicate the magnitude of the scale, scope, and the impact of this issue. UNICEF released data on prevalence of early marriage in Indonesia more than one-sixth of women married before adulthood (18 years) or about 340,000 girls annually ([https://www.unicef.org/indonesia/id/Laporan\\_Perkawinan\\_USia\\_Anak](https://www.unicef.org/indonesia/id/Laporan_Perkawinan_USia_Anak)). Other data from the results of research conducted by Rumah Kitab and Rahima in 2015 shows the national average of early marriage reached 23.6 percent (Rumah Kitab and Rahima, 2016). The majority of early marriage cases occur in rural areas. Data released by the National Socioeconomic Survey show that early marriage in rural areas is on average three times greater than in urban areas (Susenas, 2008-2012).

NU is one of the largest religious organizations in Indonesia where NU followers (nahdliyin) are majority in rural and coastal areas. As one of the references, the results of Rumah Kitab and Rahima (2016) study found that Probolinggo and Sumenep areas as one of the NU bases in East Java had relatively high rates of early marriage practices amount 24.5 percent. The number above is the national average. Up till now, the issue of early marriage is still a difference of opinion among the NU. Even through the Bahtsul Masail Institution which has the authority to make fatwas in agreement with applicable state regulations, but some NU especially women activist groups disagree with the attitude of the NU structure. The issue of dissent in the NU also relates to the scientific tradition that was built (Zahro, 2004 ; Anshor, 2012) and the authority of the kiai (Bruinessen, 1994 ; Hasyim dan Bush, 1998). These things make NU has unique characteristics to be studied.

This study uses a qualitative method. The consequence of using qualitative methods is to produce descriptive data in the form of written or oral words of the observed persons (Moleong, 1998). In addition, the selection of qualitative methods is

also based on the purpose of this study that is to understand the underlying meaning of human behavior or human groups (Suyanto, 2005). The primary data were obtained by interview technique which was conducted with the board of PP Muslimat NU, PP Fatayat NU, and PP Rahima. While the secondary data obtained by documentation techniques books, journals, magazines, print newspapers and online, the decision bahtsul masail, official website NU, Muslimat, Fatayat, and Rahima. The method used to test the validity of the research results is triangulation of data sources and method triangulation. Triangulation of data sources is done by comparing the results of interviews with related document contents. The expected result of comparison is the similarity or reason for the difference. Triangulation method is done by checking the use of data collection techniques, whether the information obtained by the interview technique (interview) the same as the information obtained by documentation techniques or whether the results of documentation in accordance with the information provided during the interview ([Bungin in Rahmawati, 2017](#)).

Data analysis technique used in this research is qualitative analysis technique, that is conducting analysis to get picture and category to be patterned. The patterns that were found then interpreted the meaning according to the model of research analysis. Efforts to interpret data through interviews and documentation will be analyzed through several stages. First, data reduction aims to select, sort, and organize data into specific patterns, categories, and themes. Second, display data that presents data in the form of sketches, tables, charts, matrices, narration. Third, is the stage of conclusion.

## **RESULT AND DISCUSSION**

### **1. Differences in Attitudes to Early Marriage Issues**

NU structurally stated the supportive attitude of Act No. 1 of 1974 on Marriage which sets the minimum age limit of married 16 years for women and 19 years for men. NU also agreed with the attitude of the Indonesian Ulama Council (MUI) and the Constitutional Court (MK) decision which rejected the judicial review on the UUP (<http://www.rappler.com/world/regions/asia-pacific/indonesia/96844-alasan-mk-tolak-judicial-review-usia-kawin>, June 19, 2016).

NU's attitude was also expressed during the Constitutional Court session which presented opinions from Islamic organizations including NU (Kompas, 20 June 2015). A study conducted by [Mu'ala \(2012\)](#) found that NU institutionally did not give a firm definition of minimum marriage age because it based on the opinion of Mazhab Ulama. NU holds that the provisions in UUP are not relevant to the opinion of Mazhab Ulama, the attitude of NU supports the UUP because in the context of religious law decisions, the UUP is a form of *ijtihad jama'i*.

Chairperson of PP Muslima NU, Khofifah Indar Parawansa, stated that setting marriage age for women is part of family planning program. Muslima NU has supported KB which has done by the Government even when KB was still a debate among NUs in the early 1970s. NU Muslima takes the insolvency that early marriage is not recommended and greatly affects the health of women reproductive organs, maternal and child health, and maternal psychological health. (NU Online, March 24, 2016)

Chairperson of PP Fatayat NU, Anggia Ermarini stated that stated that Fatayat NU NU agreed with efforts to revise the Marriage Law to change the minimum age of marriage of women from 16 years to 18 years. Fatayat NU argues that marriage under the age of 18 is more negative for women's reproductive health. Early marriage is usually always followed by pregnancy and childbirth of adolescence. So women are potentially exposed to various diseases associated with reproductive organs. Women reproductive organs since menstruation have been functioning, but the female reproductive organs under 21 are considered not ready for pregnancy (Harian Jogja, March 10, 2016). In addition, marriages without the necessary mental readiness will be more vulnerable when facing various problems in marriage, such as the risk of divorce and violence (KDRT). Early marriage also deprives the right of education for women because in general women who have married and have more children are not willing to continue their study because they are busy with household affairs. With the effort to raise the minimum age of marriage, women are expected to protect women from early marriages that bring many implications (NU Online, April 27, 2016).

Differences in opinion and attitudes between NU structurals and Fatayat NU are recognized in interviews conducted with the General Secretary of Fatayat NU (October 27, 2016). Fatayat NU once discussed with NU structural. Fatayat explained about the negative aspects that can occur in early marriage, especially against women, in the discussion. While NU structurally assesses religiously that the age of 16 years, as mentioned in the Marriage Act, a woman is baligh. When someone is baligh, then he is allowed to marry.

Nevertheless, NU Muslimat and Fatayat NU should be followed to NU structural decision because institutionally NU Muslimat and Fatayat NU are autonomous organizations of NU women under NU organizational structure. In the end, Fatayat NU decided that though structurally bound by NU decision, but in reality Fatayat NU still socialize minimum marriage age for 18 year women and the necessity of married women at matured age physiologically and psychologically in various forms of programs and activities.

Rahima explicitly declared her attitude of rejecting an early marriage. The general construct is similar to Fatayat NU. Together with Fatayat NU and other organizations concerned about early marriage issues, Rahima participated in a judicial review effort to raise the minimum marriage age for women in the Marriage law. Rahima as one of the NU women's organizations outside the NU structure is more flexible in behaving and arguing through various media than NU Muslima and Fatayat NU, because Rahima is structurally not bound with NU. Thus, Rahima can be consistent with their thoughts and opinions on the issue of early marriage. However, Rahima's attitude also gains opposition from Kiai and Ulama both within NU structures and outside NU structures which have opposite view. (wawancara dengan Direktur Operasional Rahima, 19 Oktober 2016).

## **2. Knowledge Regime as the Base of Legitimacy of Attitude**

Fikih does not regulate the minimum age of marriage. Early marriage is generally understood as a marriage between men

Biological signs of baligh in males are ihtilam (sperm discharge) in wet or conscious dreams while in women is characterized by menstruation. Age limit of baligh, according to the Syafi'i Mazhab is 15 years for both men and women. Meanwhile, according to Hanafi Mazhab age baligh for men is 18 years and 17 years old women ([Muhammad, 2000: 89-90](#)). Some religious arguments are often used as sources of legitimacy of early marriage. First, the marriage of the Prophet Muhammad with 'Aisha who is believed to be married by the Prophet at the age of 7 years and have a husband and wife relationship at the age of 9 years after 'Aisyah baligh. But there is also an opinion which states that the hadith that contains about the story is questioned because one of the exposition is old and doubt his memory. Second, the definition of baligh with biological indicators that led to the understanding when someone has baligh then he or she can do marriage. Fikih does not set the age limit for marriage, fikih only provides limits on baligh in which Baligh concept is still on the debate among NU and NU women activists. Third, the understanding of the right of ijbar owned by the wali mujbir. According to the Shafi'i mazhab, the right of ijbar is the right which is owned by the guardian or parents to marry off his daughter without having to get approval or permission from the married daughter first, provided that the woman is not a widow. Wali mujbir is the father or grandfather. Meanwhile, according to the Hanafi mazhab, the right of ijbar is only applied to women who are still under age, not in adult women. However, the right of ijbar owned by grandfather or father is not just done arbitrarily.

NU's decision on gender issues is based on the paradigm of Mazhab, as well as other legal decisions in NU. In the case of the use of Mazhab, even though NU acknowledges four great Mazhab as reference of the Shafi'i Mazhab, the Hanafi Mazhab, the Hanbali Mazhab, and the Maliki Mazhab, the dominant one used by the majority of NU ulama is the Shafi'i Mazhab. The majority of NU ulama tend to use the Shafi'i Mazhab of baligh as the foundation of in terms of marriage age determination.

In addition to base themselves on the provisions of Fiqih, NU also is basing on state provisions. According to KH Arwani Faishal, Vice Chairperson of the Bahtsul Masail Institution of PBNU, Indonesia has laws governing the determination of marriage age as a result of ijhtihad of ulama or jurists in a place and one day or called ijhtihad jama'i. The country's provisions are Law No. 1 of 1974 on marriage and affirmed in Government Regulation number 9 of 1975 and Presidential Instruction No. 1 of 1991 on the Compilation of Islamic Law. Thus, the government regulation is a law that must be obeyed. In Law No. 1 of 1974 on Marriage mentioned that the minimum age of marriage for women is 16 years and for men is 19 years. In another article, it is also mentioned that marriages under the age of 21 years can only be done with additional terms. However, the Bahtsul Masail Institution of PBNU agrees that parents or guardians before marrying their children should provide an opportunity to complete their childhood, the right to learn, and gain experience with their friends before living as a household.

The NU women's activist group sued the concept of baligh or adult biologically as a condition for marriage. Baligh or adult is understood differently by the imam mazhab and in some countries. Differences appear on the side of the object, for example the age limit of baligh for marriage is different from the age limit of baligh to become marriage representative or witness or matters relating to civil law. Baligh also indicates a person which has been deemed capable of doing muamalah or social transaction, such as in buying and selling (al buyu '), cooperation agreement (syirkah), rent (ijarah), choose (khiyar), and so forth. Thus, adult age restrictions are religious constructions and social constructions. According to Fatayat NU, understanding of baligh based on Shafi'i mazhab used to determine the age of marriage is not the only reference because there are still other Mazhab that are considered more relevant and realistic addressing the issue of early marriage in Indonesia. In addition, Fatayat NU argues that marriage under 18 years has a negative impact on women's reproductive health because early marriage will usually be followed by pregnancy and adolescence. Therefore, women are potentially exposed to various diseases associated with reproductive organs. Women reproductive organs since menstruation is already functioning, but the women reproductive organs under 21

years old are not ready for pregnancy (HarianJogja.com, **JURNAL STUDI PEMERINTAHAN** 10 Maret 2016). Early marriage without the provision of mental readiness will be more vulnerable when facing various problems in marriage. Early marriage can deprive the right of reproductive health and rights of daughters (NU Online, 27 April 2016).

Rahima has a similar argument with Fatayat NU about the need for reinterpretation of baligh. It takes a reinterpretation of baligh in interpreting maturity by involving context, not just textual interpretation. Thus, minimizing early marriage, child exploitation, trafficking, or female domestication may be subordinated as a result of a textual understanding of the meaning of baligh. Rahima explained more the meaning of baligh through several posts, among others the opinion of Zumrotin K. Susilo and Lies Marcoes Natsir (<https://www.rahima.or.id/index.php/tswara-rahima/dirasah-hadis/1337-pemaknaan-baligh-versus-dewasa-dalam-beragam-konteks-dirasah-hadis-edisi-49>).

Zumrotin K. Susilo argues that during this understanding aqil baligh interpreted just as the work begins the reproductive hormone characterized by menstruation for women and wet dreams for men. But it does not look at issues of mental maturity, health impact, and the deprivation of children's rights. While some women married under the age of 18 has been menstruated but generally they are not physically immature to get pregnant, immature psychologically, socially, and economically. Therefore, they can experience a variety of reproductive health, psychological, social, and economic health effects with the changing context of community life and evolving science. So as the conclusion it is indispensable for the revised Marriage Law (<https://www.rahima.or.id/index.php/tswara-rahima/opini/1330-zumrotin-ksusilo-pernikahan-anak-sering-mengabaikan-hakikat-baligh-opini-edisi-49>). The above opinion is in line with Lies Marcoes's view of the need to reinterpret the concept of baligh to determine the minimum age of marriage associated with aqil which means maturity of mind and mental mind. In view of Fiqih, baligh is defined as the biological maturity of a person whose reproductive organs have begun to function, so that it can be imposed on them the obligations of worship.

However, in certain contexts the word baligh is often juxtaposed with the word aqil. Therefore, determining the age limit of marriage should not only be seen from biological maturity, but also must take into justification the maturity of mind and mental. The Aqil referred to here are the phases of man's maturity and consciousness.

1. *Tamyiz phase*. Age of intelligent human being who can distinguish good and bad, right and wrong. In general, Ulama call this tamyiz phase from the age of 7 years until the age of 15 according to the Syafii Mazhab and 7 years until the age of 18 according to Abu Hanifah. In this phase, they begin to be introduced and understood about the science of religion.
2. *Murahiq phase*. Age of adolescence or puberty. Psychologically in this phase teenagers are in a volatile stage, looking for identity. In the perspective of the Syafii mazhab of phase, this phase begins when the age of 15 years until about 17 or 18 years.
3. *Phase rusyd*. Phases where a person has entered adulthood, maturity, ability to manage finances, do business, and get married. This phase is baligh phase that include mental, psychological, and awareness. It is able to be independent and accept responsibilities such as marrying and supporting his or her family. Rusyd is closely related to aqil. Therefore, in the context of maturity in the rusyd phase, it cannot be separated between aqil and baligh. But in practice, aqil and baligh contains a gender-biased understanding, in which the concept of aqil baligh is reduced to maturity only biologically, ie menstruation ([www.rahima.or.id/index.php/tswara-rahima/opini/lies-marcoes-natsir-dewasa-itu-aqil-baligh-bukan-hanya-baligh-opini-2-edisi-49](http://www.rahima.or.id/index.php/tswara-rahima/opini/lies-marcoes-natsir-dewasa-itu-aqil-baligh-bukan-hanya-baligh-opini-2-edisi-49)).

The baligh period described by some mazhab which actually reaches the age of puberty (*murahiq*), where maturity deprivation is only physical and biological. It is not entering a period of *rusyd* or mental, psychological, and economic maturity. In the view of Marcoes, Baligh in biological meaning has more harm to women than men. Women with reasons for baligh must first bear the social burden than men. Women with reasons for baligh also lose their rights such as the right to education, economic rights and political rights.

Fikih is a product of human thought called *ijtihad*. As a product of thought, Fikih was influenced by the social, cultural, and political conditions of its time. According to Marcoes, fikih has been produced by men with patriarchal culture that is gender biased. Thus, the spirit of Islam and the Qur'an are upholding the dignity and freedom of women, such as the liberation of slaves, the zeal of polygamy towards monogamy, the object of inheritance becomes the subject of inheritance, but the spirit of liberation is actually imprisoned by a legal fatwa. Fikih and formal legal rules are binding. On the basis of that, it can be understood if the content of connected with gender issues perceived subordinate nuances.

Realizing that maturity is not absolute or in other words is contextual, then the Quran does not mention rigid and *rusyd* age limits. Disagreements among ulama and the absence of consensus on the meaning and limits of baligh indicate that it is a matter of *ijtihad*. Meaning that there is no definite textual firmness. Ulama and the state who have to be able to determine the age of adulthood so that the purpose of marriage can be achieved, where to achieve the purpose of marriage required maturity not only physically, but also mental, psychological, knowledge, and economics. If the country determines the marriage age above 18 years, then the age is already mature (*rusyd*). To subtract early marriage, it must be reinterpreted baligh in meaning biologically to baligh socially. Then, it should do a study of the impact of baligh understanding that is biological. After that, there should be a preparation of the fikih argument which could break the argument of early marriage.

Furthermore, it is the responsibility of the state that has the authority to make regulations which has function to bind its citizens. In the rule of fiqh said that the government's determination to eradicate differences of opinion. If linked in the context of early marriage, the debate among ulama should be solved in government regulation by considering the value of the people and comprehensive consideration from various aspects and for various parties (<https://www.rahima.or.id/index.php/tswara-rahima/opini/1331-lies-marcos-natsir-ma-dewasa-itu-aqil-baligh-bukan-hanya-baligh-opini-2-edisi-49>)

With consideration of benefit, some ulama abandon the practice of early marriage, even the decide its *makruh*. *Makruh* means can be done, but better left behind. Women who are not ready physically and psychologically to assume duties as wives and housewives, even though they are baligh in such conditions the marriage does not give benefit and even cause mafsadah (impairment).

Basically, the view of the Shafi'i mazhab is also a view of other mazhab of thought, all of them which agree that marriage is intended for the benefit of all parties, both men and women, and the survival of their families. Thus, it is actually the most crucial issue in early marriage in the view of jurists: First, the factor of benefit whether or not there is a benefit element for both parties to be married. Secondly, there is concern about the possibility of sexual intercourse that is not justified by religion ([Muhammad, 2000:99-100](#)).

## **2. Interests Behind the Issue of Early Marriage**

Among nahdliyin marriage cases under the age of 18 years are still widely encountered. Many factors cause early marriage to occur, such as social, cultural, and economic factors ([Muhammad, 2000](#)). This opinion is reinforced by interviews with a Rahmi Rahman activist and stated that early marriage among nahdliyin still occur, not only among lower class society, but also upper and middle class such as among kiai and nyai. This happens because many kiai are using the Shafi'i mazhab to determine the age of baligh. According to Syafi'i mazhab, to determine baligh women is 15 years or 9 years if they had menstruation.

This benchmark is used as the basic minimum age of marriage. In addition, social, cultural, and economic realities often also encourage early marriage, for example in a society that is economically limited and can no longer send their children to school after junior high school, marrying their daughters as one of the solutions to reduce the family's economic burden. In other hand, there is also the assumption that if their daughter is married by a man whose social status and economy is higher, then it will raise their family status (Interview, 19 March 2017).

NU agrees with the Marriage Law which sets the marriage age for women 16 years old, with the argument that the age of 16 years according to the Syafi'I mazhab of a woman has passed the age of baligh. Thus, the Marriage Law is considered not contrary to Islamic law. The interest of NU behind the attitude and knowledge regime is to accommodate the early marriage practices that are still prevalent among nahdliyin. The use of the Shafi'i mazhab as the basis of NU's legitimacy of knowledge is to maintain the status quo of the marriage age limit for women as part of the NU's patriarchal gender habitus.

NU gender activists use the Hanafi mazhab as the basis for the legitimacy of knowledge. The Hanafi school uses the age limit of baligh for 17-year-old women and for 18-year-old men. It becomes a hegemonic counter to NU's built-in knowledge regime. The attitude and legitimacy of fikih used by Fatayat NU and Rahima is one of interest to reconstruct gender habitat in NU aimed at eliminating gender injustice which caused by patriarchy through the reinterpretation of fikih

**Table 1**  
Results of Research on Social Practice (Attitude), Knowledge Reform Perspective, and Interests of Actors on Early Marriage Issues

| Actor                          | Social Practices / Attitudes  | Perspective of the Knowledge Regime  | Interests  |
|--------------------------------|---|--|--|
| NU Structural                  | Supports minimum marriage age for women 16 years old  | Using the concept of baligh according to Syafi'i mazhab and the Constitution as <i>ijtihad jama'i</i>                    | The legitimacy of early marriage practices still prevalent among NU, maintaining the status quo of NU's gender habitus   |
| Muslima NU, Fatayat NU, Rahima | Supports the raising of minimum marriage age for women to a minimum of 18 years. Muslima NU and Fatayat NU should ultimately follow NU structural decisions due to structural submission. Rahima remains in his attitude because of structural freedom. | Using the Hanafi mazhab. Extend the concept of baligh biologically to socially baligh, and add a scientific perspective. | Reinterpreting fiqh contextually so as not to harm women in the issue of early marriage, the ideology of feminist theology suing patriarchy in the NU gender habitus |

Based on the data above, it can be analyzed that the difference of attitude between the NU structural group and the NU women activist group is caused by the different perspectives or knowledge regimes that serve as the basis of legitimacy and the existence of different interests. Differences in perspective can be seen from the choice of Mazhab and other scientific arguments used as the basis of legitimacy. While differences in interests can be seen from the value, ideology, or power that is fought for.

Differences perspective appears on the meaning of the concept of "baligh" as the age limit of marriage. The NU structural group follows the Shafi'i mazhab in determining the "baligh" of the biological and age aspects. While the NU women's activist group used the Hanafi mazhab and expanded the concept of "baligh" biologically toward "baligh" socially. The adequacy of age or biological conditions alone is not enough to be considered women to marry or married, but needed psychological readiness with their new role as a wife and as a mother. Women's activist groups also see greater harm than reproductive health aspects of women if married before the age of 18 years. Differences of interest appear to the value, ideology, and power struggled. The NU's structural group as a dominant group tends to emerge to defend patriarchal values and ideology (status quo) as a gender habitus in NU. It is also to legitimize the fact that there are still many early marriage practices in NU. While NU women activist groups have an interest to interpret fikih which puts women in subordinate positions in gender relations. They are much influenced by the ideology of feminist theology. In their view, early marriage is more detrimental to women in many aspects of their lives. In the context of religion, the practice of early marriage comes from the textual interpretation of fiqh. Therefore, to dismantle the social construction, it is necessary to reinterpret the fikih contextually.

### **3. NU Women Activist Group and Reproductive Object on the Issue of Early Marriage**

Capital as a resource base plays an important role in power contestation. In his theory, Bourdieu states that social practice or power exercise is a dialectic of capital and habitus in the realm or field of contestation. The study found that NU women's activist groups were weak in terms of symbolic capital and economic capital when faced with NU structural groups, but NU women were able to compete in terms of social

capital and cultural capital. The social capital is owned by Muslimat NU, Fatayat NU, and Rahima in the form of attachment within organizations and social networks built with parties having authority, power and equality of interests. Social networks are built with NGOs, religious social organizations, mass media, kiai and nyai, boarding school, educational institutions, community leaders, governments, donor agencies and individuals who are competent in their fields.

Cultural capital is found in the form of formal educational background and knowledge of educational outcomes. In general, NU Muslimat activists, Fatayat NU, and Rahima have formal education background and boarding school. Thus, in addition to their general knowledge that they also have strong religious knowledge. But the difference is the level of their openness to new ideas such as feminism and democracy. Fatayat NU and Rahima are more open to new ideas than NU Muslims. [Robinson \(2009\)](#) in his research also found a correlation between the birth of progressive gender activists with experience, education, and the inclusion of feminist ideas and democracy in Islam.

Symbolic capital is owned by Muslimat NU, Fatayat NU, and Rahima in the form of institutional authority and legitimacy associated with symbolic power. Muslimat NU and Fatayat NU do not possess a strong symbolic capital, as it is institutionally under NU. The symbolic capital of Muslimat NU and Fatayat NU is weak because it is dominated by NU's "symbolic power". This relates to "structural compliance" which reflects the weakness of the NU Fatayat power relations with NU. The dynamics of progressive thinking that emerged in the NU Fatayat were subdued by the NU's structural power and symbolic power. In addition, It is to deal with the authority and legitimacy of the NU structure, Muslimat NU and Fatayat NU are also dealing with the authority and legitimacy of the majority of kiai and ulama outside NU structures that are still conventional. Something similar is faced by Rahima, even though Rahima is outside the NU structure.

Economic capital is in the form of material assets and sources of funding Muslimat NU, Fatayat NU, and Rahima. All three have limited funding to run their programs. The most common thing done by these three groups of women activists is to use social capital in the form of networks to accumulate economic capital. By cooperating and building networks, it is possible to obtain funding in the form of financial, facilities and infrastructure, and program cooperation. Rahima more liberal in seeking funding because it does not have a structural bond with NU ([Rahmawati, 2017: 277](#)).

Comparison of capital qualification owned by the actors involved in the contestation of early marriage issues can be summarized as follows:

**Table 2**  
Capital Qualification of the Actor for Contribution

| <b>Actor</b> | <b>Capital</b> |                |                 |                  |
|--------------|----------------|----------------|-----------------|------------------|
|              | <b>Social</b>  | <b>Culture</b> | <b>Symbolic</b> | <b>Economics</b> |
| NU structure | v              | v              | v               | v                |
| Muslimat NU  | v              | v              | -               | -                |
| Fatayat NU   | v              | v              | -               | -                |
| Rahima       | v              | v              | -               | -                |

Source: processed from interviews and documentation

NU women activist groups are able to manage social capital in the form of owned networks and cultural capital in the form of educational background in such a way to produce a charismatic affiliation strategy and reproduction of reasons. Charismatic affiliation strategy relates to their social capital, which is to build cooperation with kiai and nyai who are considered progressive and have the same views and interests. In the culture of NU, Kiai has strong authority, both scientific authority and boarding school authority. Therefore, affiliating with influential kiai is essential to seek support and gain the legitimacy of the knowledge regime. The reproductive strategy of reasoning relates to the cultural capital owned by the NU women activist group in the form of general education and boarding school that they take, experience, contact and openness with the ideas of theological feminism.

The reproduction of reason provides a new perspective for NU women activist groups in the practice of gender power. They assume that patriarchy is the cause of gender inequality. The source of oppression against women in the context of religion is the interpretation of religious texts, especially patriarchal and textual fikih, so they are suing a deeply rooted patriarchal culture within the NU.

Their ability to perform reasoning reproduction allows them to develop internal habitus as a new value in their respective organizations. But uniquely, the internal habitus is built without completely abandoning the NU's gender habitus as a generally applicable habitus. On the one hand, it shows the strong NU's gender dominance that is still difficult to penetrate by women activist groups. On the other hand, this shows an accommodative strategy of NU women activist groups.

Habitus is a cognitive mental structure acquired through the internalization of collective social world structures within the span of individual history. On the one hand, there is no two people that have the exact same life history, which means no two-person habitus is exactly alike. On the other hand, habitus is derived from the internalization of the social world structure that is experienced collectively by agents living in the same social conditions. It is commonality that allows the regularity and harmony of practices and representations produced by agents in the same group. This similarity also produces a common sense world shared together ([Bourdieu, 1992](#)).

Each time the habitus gains new experience, the habitus is always changing by integrating into the new experience. The changes that occur a certain limit, because the habitus tends to remain. Once established, the habitus will be a filter for new experiences. Initial experience plays an important role. In addition, habitus will tend to lead the agent to new experiences that reinforce the initial experience and avoid the debilitating experience, it does not mean the habitus cannot be changed ([Bourdieu, 1992](#)).

Fatayat NU was heavily influenced by the idea of socialist feminism combined with the NU tradition. Fatayat NU seeks to reconcile text and context in a syntactic fatwa formula. Meaning, the reinterpretation of Fikih is done contextually without leaving the NU tradition.

Rahima is influenced by the idea of radical feminism that is applied in the localities of the NU community. Rahima tried to reinterpret fikih with historical criticism, sociological criticism, the use of hermeneutic methods and anthropology, unencumbered or confined to the classical ulama's product of thought. This is in contrast to NU Muslims who tend to be more conservative of feminist ideas, especially those have seen as coming from the West and not in accordance with the NU tradition. Although NU Muslims also accommodate changes that have taken place, accommodation has tended to follow NU's structural decisions. Hence it is not able to change the NU's patriarchal gender habitus, the reasoning reproduction made by the NU women activist group was able to become an alternative gender discourse within the NU.

### **CONCLUSION:**

The debate of early marriage discourse within NU is a power contestation between the NU structural group who represent the dominant power as orthodox with the NU women activist groups who represent the dominated power as a heterodoxed group. Different attitudes in early marriage issues that occurred between NU structural and NU women activist groups stemmed from different perspectives in understanding the issue of early marriage and the different factors of interest. Differences in perspective can be seen from the choice of madhabs and other scientific arguments used as the basis of legitimacy. Differences in interest can be seen from the value, ideology, or power that is fought for.

NU women activist groups are able to manage social capital in the form of owned networks and cultural capital in the form of educational background in such a way to produce a charismatic affiliation strategy and reproduction of reasons. Their ability to perform reasoning reproduction allows them to develop internal habitus as a new value in their respective organizations without leaving NU's gender habitus. Though, it cannot change the NU's patriarchal gender habitus, the reproduction of reason by NU women activist groups can be an alternative gender discourse in NU.

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